1 Lumont Otis   )
)   *E-FILED - 2/9/12*
2   Petitioner   )
)
3   v.   )
)   No. C 09-0595-DLJ
4 United States of America,   )   C 10-4302
)   (Appeal No. 11-17761)
5   Respondent.   )   ORDER
)
6 _____)

7

8   Otis filed a petition to vacate, set aside or correct his

9 sentence pursuant to 28 U.S.C. § 2255 alleging ineffective

10 assistance of counsel. On October 11, 2011 this Court issued

11 an order denying Otis' 2255 motion holding that Otis had made

12 no showing on the issue of ineffective assistance of counsel.

13   On October 24, 2011, Otis filed in this court a Notice of

14 Intent to Appeal the October 11, 2011 Order to the Ninth

15 Circuit. On November 17, 2011 the Ninth Circuit assigned

16 appellate case number 11-17761 to Otis' case pending a issuance

17 of a Certificate of Appealability by this Court.

18   On January 23, 2011 the Ninth Circuit issued a limited

19 remand to this Court for the purpose of the Court granting or

20 denying a Certificate of Appealability. Otis has failed to make

21 a substantial showing that his claim of ineffective assistance

22 of counsel amounted to a denial of his constitutional rights or

23 to demonstrate that a reasonable jurist would find the denial

24 of his claim debatable or wrong. See Slack v. McDaniel, 529

25 U.S. 473, 484 (2000). Consequently, the Court finds that the

26 standards for granting a Certificate of Appealability have not

27 been met in this case and a request for a Certificate of

28 Appealability is DENIED. See United States v. Asrar, 116 F.3d

1268, 1270 (9th Cir. 1997).

IT IS SO ORDERED.

Dated: February 9, 2012

_____

D. Lowell Jensen
United States District Judge

United States District Court
For the Northern District of California

United States District Court

For the Northern District of California

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2 *Copy of Order E-Filed to Counsel of Record on 2/9/12:*

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